

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4174-04
Bill No.: Perfected HCS for HB 1305
Subject: Health Care; Health Care Professionals; Hospitals; Physicians
Type: #Updated
Date: March 15, 2004
Updated for new Department of Insurance information.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Insurance Dedicated Fund#	(\$66,938)	(\$55,128)	(\$93,069)
Total Estimated Net Effect on <u>All</u> State Funds#	(\$66,938)	(\$55,128)	(\$93,069)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Insurance (INS)** state it will be required to develop the risk-reporting categories and develop a data base for the actual rates charged to generate the median rate. Annual review of rates to median would be required to determine if rates are reasonable. Requirements would require one (1) Research Analyst III to update and maintain the database on rate information reported. This position would also publish the market rate reflecting the median of actual rates for each of the 26 reporting categories. The INS estimates one time programming costs of \$12,025 would be required to develop and implement the risk reporting database.

Medical malpractice insurers will be required to re-file policy forms to conform with the cancellation provision. There are 41 insurers that have written premium for medical malpractice insurance in 2002. Policy form amendments must be submitted to the INS for review along with a \$50 filing fee. The INS estimates one-time revenues to the Insurance Dedicated Fund of \$2,050 (41 insurers X \$50).

A half (½) FTE actuarial staff would be required to review detailed information of any rate change deemed unreasonable including actuarial justification and other information as prescribed by the INS. The actuary would assist the director in conducting the public hearing and make recommendations on the determination of whether the rate change is justified. Depending on the number of hearings and appeals, legal staff may be required as well, but are not being requested at this time.

ASSUMPTION (continued)

The INS estimates costs for this proposal at \$144,409 for FY 05; \$129,885 for FY 06; and \$133,168 for FY 07.

The INS will be required to develop the risk-reporting categories and develop a database for the actual rates charged to generate the median rate. Annual review of rates to median would be required to determine if rates are reasonable. These requirements would require one (1) Research Analyst III to update and maintain the database rate information reported. This position would also publish the market rate reflecting the median of actual rates for each of the 26 reporting categories. The INS estimates one-time programming costs of \$12,025 would be required to develop and implement the risk reporting database.

Medical malpractice insurers will be required to re-file policy forms to conform with the cancellation provision. There are 41 insurers that have written premium for medical malpractice insurance in 2002. Amendments must be filed with the INS along with a \$50 filing fee. The INS estimates one-time revenues to the Insurance Dedicated Fund of \$2,050 (41 insurers X \$50).

A half ($\frac{1}{2}$) FTE actuarial staff would be required to review detailed information of any rate change deemed unreasonable including actuarial justification and other information as prescribed by the department. The actuary would assist the director in conducting the public hearing and make recommendations on the determination of whether the rate change is justified. Depending on the number of hearings and appeals, additional legal staff may be required, but are not being requested at this time. Sections 383.404, 383.405, and 383.406 which require the additional actuarial staff are effective July 1, 2007. This would require six (6) months of a half ($\frac{1}{2}$) actuary for FY 07 and 12 months in future years.

The INS estimates costs for this proposal at \$73,689 for FY 05; \$58,577 for FY 06; and \$96,621 for FY 07.

Oversight assumes the INS would require additional equipment and expense for the Research Analyst III. **Oversight** assumes additional equipment and expense would not be required for the 0.5 FTE actuarial staff person.

Officials from the **Office of the Secretary of State (SOS)** state this proposal creates notice provisions, reporting requirements, public market rates and presumptions for the Department of Insurance and entities providing medical malpractice and professional negligence insurance. This proposal may result in the Department of Insurance promulgating rules to implement the legislation. Based on experience with other divisions, the rules, regulations and forms issued by the Department of Insurance could require as many as 22 pages in the *Code of State Regulations*.
ASSUMPTION (continued)

For any given rule, roughly one-half again as many pages are published in the *Missouri Register* as are published in the Code because cost statements, fiscal notes and notices are not published in the Code. The estimated cost of a page in the *Missouri Register* is \$23.00. The estimated cost of a page in the *Code of State Regulations* is \$27.00. The actual costs could be more or less than the numbers given. The fiscal impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn. The SOS estimates the cost of this legislation to be \$1,353 [(22 pp x \$27) + (33 pp x \$23)].

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

This proposal will result in an increase in Total State Revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (12 Mo.)	FY 2006	FY 2007
INSURANCE DEDICATED FUND			
<u>Income - Department of Insurance</u>			
Form filing fees	\$2,050	\$0	\$0
<u>#Costs - Department of Insurance</u>			
Personal services costs (1 FTE)	(\$35,510)	(\$36,398)	(\$63,153)
Fringe benefits	(\$14,701)	(\$15,069)	(\$26,145)
Equipment and expense	(\$18,777)	(\$3,661)	(\$3,771)
Total <u>Costs</u> - Department of Insurance	<u>(\$68,988)</u>	<u>(\$55,128)</u>	<u>(\$93,069)</u>
#ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND	<u>(\$66,938)</u>	<u>(\$55,128)</u>	<u>(\$93,069)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2005 (12 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal may impact small businesses by providing notice of assessments or surcharges that may be imposed and giving longer notice for non-renewal of policies other than for nonpayment of premiums.

DESCRIPTION

This proposal makes changes to the laws governing medical malpractice insurance. In its main provisions, the proposal:

- (1) Allows three or more persons meeting certain requirements to form a business entity for the purposes of providing malpractice insurance;
- (2) Prohibits insurance companies and other entities providing malpractice insurance to health care providers in Missouri from: (a) Increasing charges without 60 days' prior notice to the insured; (b) Refusing to renew policies without 60 days' prior notice, unless the refusal to renew is based upon nonpayment of insurance premiums or license termination or suspension; and (c) Ceasing to issue insurance policies without 180 days' prior notice to the Division of Insurance;
- (3) Requires the division to establish 12 to 24 risk-reporting categories for medical malpractice premiums and regulations for reporting premiums by category by May 30, 2005;
- (4) Requires insurance companies and other entities providing malpractice insurance to health care providers in Missouri to provide the division, by June 1, 2005, and annually thereafter, with reports on premium rates charged by category;
- (5) Requires the division, by December 31, 2006, and annually thereafter, to establish and publish a market rate reflecting the median of the actual rates charged for each risk-reporting category for the preceding year;
- (6) Provides that, after January 1, 2007, insurance premium rates charged by insurance companies and other entities providing malpractice insurance to health care providers in Missouri which are no greater than 20% higher or lower than published market rate will be presumed reasonable, and rates greater than 20% higher or lower will be presumed unreasonable;
- (7) Any insurer who proposes to increase or decrease premium rates to they are presumed unreasonable shall notify the director, in writing, at least 60 days in advance of the effective date of the proposed premium rate change. Within 10 days of receipt of the notice, the director will

DESCRIPTION (continued)

set a date for a hearing on the proposed rate change. The hearing may be a public hearing. Within 20 days after the close of the hearing, the director will review all information submitted and determine if the rate change is justified;

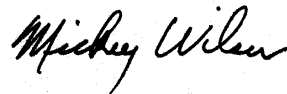
(8) If provisions of the proposal are violated, the director may impose a penalty not to exceed \$500 for each violation unless the violation is found to be willful. Willful violations may result in a penalty up to \$5,000 for each violation; and

(9) The proposal contains an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Insurance
Office of Secretary of State

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
March 15, 2004